

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

SERGEY SPITSYN,

Plaintiff,

v.

RICHARD MORGAN, *et al*,

Defendants.

Case No. C04-5134FDB

ORDER TO SHOW CAUSE

This matter has been referred to Magistrate Judge Karen L. Strombom pursuant to 28 U.S.C. § 636(b)(1), Local Magistrates Rules MJR 3 and 4, and Rule 72 of the Federal Rules of Civil Procedure. The case is before the Court on plaintiff's motion seeking court order to return funds intended to reimburse costs on appeal. (Dkt. #71). After reviewing plaintiff's motion, defendant's response thereto and the balance of the record, the Court finds and orders as follows:

In his motion, plaintiff states that he was granted costs in the amount of \$439.20 on appeal to the Ninth Circuit Court of Appeals of this Court's order dismissing his original complaint. He further states that the Department of Corrections ("DOC") deducted twenty percent of the costs he received and directed those monies toward certain other legal costs he had. As a result, plaintiff argues he has not been fully reimbursed for the costs he was awarded in violation of federal law, and requests this Court order DOC to return the monies it deducted from those costs.

In response to plaintiff's motion, defendants agree that the monies should not have been deducted

1 from plaintiff's awarded costs, and states that DOC currently is in the process of reversing the deduction.
2 They argue that because plaintiff will be reimbursed, his motion is now moot. Defendants further state that
3 they will provide the Court with proof of the reimbursement when it is complete. Plaintiff has not filed any
4 reply to defendants' response.

5 Because it appears DOC is in the process of reimbursing plaintiff, the Court will not at this time
6 rule on his motion. Rather, defendants are directed to inform the Court by **no later than June 10, 2006**,
7 the date by which they anticipate plaintiff's reimbursement will be complete. Upon receipt of proof of the
8 completion of such reimbursement, the Court will deny plaintiff's motion as moot.

9 The Clerk is directed to send a copy of this Order to plaintiff and counsel for defendants.

10 DATED this 10th day of May, 2006.

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14 Karen L. Strombom
15 United States Magistrate Judge
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